Constitution of Afghanistan

9 Mizan 1343 - 1 October 1964

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دافغانستان د باچا بنسکلی

مونږ المتوکل علی الله محمد ظاهر شاه د افغانستان باچا
د افغانستان دنوی اساسی قانون مسوده چه
دهغې لویې جرګې لخوا تصویب شوې کومه
چه د ۱۳۴۳ هـ ش کال د سنبلې د میاشتې د
اتلسمې ورځې څخه د سنبلې تر اتمې ویشتمې پورې
د کابل په ښار کې غونډه شوې وه دلوی خدای
په نامه بنسکلو او سرلړنو ورځې څخه یې
د دولت په تولو سیمو کې د افغانستان
د اساسی قانون په حیث نافذه اعلامو.

سرلړنې ورځې د افغانستان هغه
اساسی قانون چه د ۱۳۰۹ هـ ش کال د لویې جرګې
لخوا تصویب شوې او ترننه پورې په هیواد
کې نافذ و د هغه د تولو ضمائمو سره لغو
شوی اعلامو.

محمد ظاهر شاه

د افغانستان پاډشاه

دکلخانې مانۍ

۹ میزان ۱۳۴۳

توشیح پادشاه افغانستان

ما المتوکل علی الله محمد ظاهر شاه پادشاهِ افغانستان
مسوده قانون اساسی جدید افغانستان را
که از طرفِ لویه جرگه ایکه از هژدهم تا بیست و
هشتم ماه سنبلهٔ سال ۱۳۴۳ هـ ش در
شهر کابل انعقاد یافت تصویب گردیده
بنام خداوند بزرگ توشیح میکنیم و سراز امروز
آنرا بحیث قانون اساسی افغانستان در تمام
نقاط دولت نافذ اعلام می نمائیم.

سراز امروز قانون اساسی را که از طرفِ
لویه جرگهٔ سال ۱۳۰۹ هـ ش تصویب گردیده و اکنون
در کشور نافذ بود با تمام ضمائم آن ملغی اعلام میداریم.

قصر گلخانه

۹ میزان ۱۳۴۳

Royal Promulgation

We, Mohammad Zahir Shah, the King of Afghanistan, in the name of Almighty God, do herewith sign the new Constitution of Afghanistan approved by the Loya Jirgah in its session in Kabul beginning on the eighteenth and ending on the twenty-eighth of Sumbullah, 1343. We promulgate this new Constitution today throughout the entire State.

From today we declare the Abrogation of the Constitution approved by the Loya Jirgah of 1309 prior to this day in force in the country and all amendments thereto.

MOHAMMAD ZAHIR SHAH
King of Afghanistan

Gulkhana Palace
9 Mizan 1343
1 October 1964

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Preamble

بسم الله الرحمن الرحيم

IN THE NAME OF GOD, THE ALMIGHTY AND THE JUST

TO reorganize the national life of Afghanistan according to the requirements of the time and on the basis of the realities of national history and culture;

TO achieve justice and equality;

TO establish political, economic and social democracy;

TO organize the functions of the State and its branches to ensure liberty and welfare of the individual and the maintenance of the general order;

TO achieve a balanced development of all phases of life in Afghanistan; and

TO form, ultimately, a prosperous and progressive society based on social co-operation and preservation of human dignity;

WE, the People of Afghanistan, conscious of the historical changes which have occurred in our life as a nation and as a part of human society, while considering the above-mentioned values to be the right of all human societies, have, under the leadership of His Majesty Mohammed Zahir Shah, the King of Afghanistan and the leader of its national life, framed this Constitution for ourselves and the generations to come.

TITLE ONE

The State

TITLE ONE

The State

Article 1

Afghanistan is a Constitutional Monarchy; an independent, unitary and indivisible state.

Sovereignty in Afghanistan belongs to the nation.

The Afghan nation is composed of all those individuals who possess the citizenship of the State of Afghanistan in accordance with the provisions of the law. The word Afghan shall apply to each such individual.

Article 2

Islam is the sacred religion of Afghanistan. Religious rites performed by the State shall be according to the provisions of the Hanafi doctrine.

Non-Muslim citizens shall be free to perform their rituals within the limits determined by laws for public decency and public peace.

Article 3

From amongst the languages of Afghanistan, Pushtu and Dari shall be the official languages.

Article 4

The flag of Afghanistan is tri-colour -- black, red and green -- all pieces joined together vertically from left to right in equal proportions; the breadth of each strip equalling half of its length, having in the middle the insignia of the mehrab* and the menber** in white, flanked by two flags and ensconced in two sheaves of wheat.

Article 5

The capital of Afghanistan is the city of Kabul.

Footnotes:

* The mehrab is an arch in a Mosque where the prayer-leader stands, facing the Kaaba in Mecca.

** The menber is a many-tiered pulpit placed to the right of the mehrab in a mosque, from which addresses are delivered.

TITLE TWO

The King

TITLE TWO

The King

Article 6 In Afghanistan the King personifies the sovereignty.

Article 7 The King is the protector of the basic principles of the sacred religion of Islam, the guardian of Afghanistan's independence and territorial integrity, the custodian of its Constitution and the centre of its national unity.

Article 8 The King shall be an Afghan national, a Muslim and a follower of the Hanafi doctrine.

Article 9 The King has the following rights and duties:

1. Holds Supreme Command of the armed forces of Afghanistan.
2. Declares war and armistice.
3. Summons and inaugurates the Loya Jirgah (Great Council).
4. Inaugurates the ordinary session of the Shura (Parliament).
5. Summons and inaugurates the extraordinary sessions of the Shura (Parliament).
6. Dissolves the Shura (Parliament) and decrees new elections, which shall be held within three months from the date of the dissolution of the Shura (Parliament).
7. Signs laws and proclaims their enforcement.
8. Issues ordinances.
9. Grants credentials for conclusion of international treaties, in accordance with the provisions of the law.
10. Signs international treaties.
11. Appoints the Prime Minister and accepts his resignation. Appoints Ministers on the recommendation of the Prime Minister and accepts their resignations.

12. Appoints the non-elected members of the Meshrano Jirgah (House of the Elders) and appoints its President from amongst its members.

13. Appoints the Chief Justice and Justices of the Supreme Court.

14. Appoints Judges and high-ranking civil and military officials and grants them retirement in accordance with the provisions of the law.

15. Accredits the Heads of Afghanistan's diplomatic missions to foreign States; appoints permanent Representatives of Afghanistan to international organisations and accepts the credentials of foreign diplomatic representatives.

16. Proclaims and ends the state of emergency.

17. Remits and pardons sentences.

Article 10 Coin is minted in the name of the King.

Article 11 The name of the king is mentioned in khutbas .

Article 12 Medals are awarded by the King in accordance with the terms of the law.

The award of medals shall not carry any material benefit.

Article 13 The Royal expenditures shall be fixed in the State budget according to the law of the Royal Expenses.

Article 14 The exercise of rights and duties described under this Title shall be subject to the limits prescribed by the provisions of this Constitution.

Article 15 The King is not accountable and shall be respected by all.

He takes the following oath, in the presence of the members of the Royal family, the members of the Government and the Justices of the Supreme Court, in a joint sitting of both Houses of the Shura (Parliament).

"In the name of God, the Great, I swear to be conscious of His Omnipresence in all my actions, that I shall protect the sacred principles of the religion of Islam, shall guard the Constitution, shall protect the independence and territorial integrity of the country as well as the laws of the State

Footnote: *The khutba is an address delivered as a religious rite on occasions specified in the Islamic religion.

and the rights of the people; and, invoking Divine Assistance, shall reign in accordance with the provisions of the Constitution of Afghanistan and devote my efforts to the well-being and progress of the Afghan nation."

Article 16 The succession to the Throne of Afghanistan shall continue in the House of His Majesty Mohammed Nadir Shah, the Martyr, in accordance with the provisions of this Constitution.

Article 17 Should the King resolve to abdicate, he shall inform a Council consisting of the President of the Wolesi Jirgah (House of the People), the President of the Meshrano Jirgah (House of the Elders), the Prime Minister, the Chief Justice and the Minister of the Royal Court and, thereafter, convene a meeting of the Loya Jirgah (Great Council) within a period of seven days and announce therein his abdication in person or through the Minister of Court.

If the Loya Jirgah (Great Council) attests that the abdication has stemmed from the will of the King, the abdication shall be considered effective from the date of the attestation.

Article 18 On the King's abdication or death, the Throne shall pass on to his eldest son.

If the eldest son of the King lacks the qualifications set forth in this Constitution, the Throne shall pass on to his second son and so on.

Article 19 Whenever the King abdicates or dies without a son possessing the qualifications to become the King, the Throne shall pass on to the oldest of the King's brothers.

In case the oldest of the King's brothers lacks the qualifications needed, the Throne shall pass on to the second brother in line and so on.

If the King does not have a brother possessing the qualifications required for the King, his successor shall be elected from amongst the male-lineal descendants of His Majesty Mohammed Nadir Shah, the Martyr. In this case the King shall be elected by an Electoral College consisting of the Loya Jirgah (Great Council), the Government, and the Justices of the Supreme Court. This Electoral College shall be summoned by the Prime Minister, in the case of the death of the King within fifteen days from the date of the demise and in the case of abdication within seven days from the

date when the King's abdication becomes effective. The decision of this Electoral College shall be by a majority of votes of the members present and shall be considered effective upon the consent of the person chosen as the King.

The Minister of Court shall act as Regent from the time of the death of the King or the validation of his abdication until the election of his successor.

Article 20 The King shall, when he decides to travel out of the country, appoint one or more persons to act as his Regent or Regents. This person or persons shall, during the absence of the King and on his behalf, discharge the Royal functions in accordance with the provisions of this Constitution and within the limits of the authority delegated to him or them by the King.

The following persons shall not be appointed as Regent:

1. The Prime Minister
2. The President of the Wolesi Jirgah (House of the People)
3. The President of the Meshrano Jirgah (House of the Elders)
4. The Chief Justice

Article 21 In case the King dies before his successor has completed twenty years of life, the Queen shall act as Regent until his successor reaches the stipulated age.

In case the Queen be not living, the Electoral College, provided under Article 19 of this Constitution, shall elect someone from amongst the male-lineal descendants of His Majesty Mohammed Nadir Shah, the Martyr, to act as Regent.

Article 22 Whenever the King abdicates and his successor has not completed twenty years of life, the Electoral College, provided under Article 19 shall elect someone from amongst the male-lineal descendants of His Majesty Mohammed Nadir Shah, the Martyr, to act as Regent until the successor reaches the stipulated age.

Article 23 The Regent of the King must possess the qualifications specified in Article 8.

The Regent shall perform the royal functions in accordance with the provisions of this Constitution.

In the case of the Queen acting as Regent, the exercise of the authority described in section two of Article 9, shall take place with the advice of the Government.

The Regent, during the tenure of his office, cannot engage in any other profession.

The person elected as Regent by virtue of Articles 21 and 22 of this Constitution shall never be elected as the King of Afghanistan.

During the period of Regency, the provisions relating to succession under the Title "King" of this Constitution shall not be amended.

Article 24

The Royal House is composed of the sons, the daughters, the brothers and the sisters of the King and their husbands, wives, sons and daughters; and the paternal uncles and the sons of the paternal uncles of the King.

In the official protocol of the State, the Royal House comes after the King and the Queen.

The expenditure of the Royal House shall be fixed in the budget of the Royal Expenses.

Titles of nobility are exclusively confined to the Royal House and shall be assigned in accordance with the provisions of the law.

Members of the Royal House shall not participate in political parties, and shall not hold the following offices:

1. Prime Minister or Minister
2. Member of the Shura (Parliament)
3. Justice of the Supreme Court

Members of the Royal House shall maintain their status as members of the Royal House as long as they live.

TITLE THREE

The Basic Rights and Duties of the People

TITLE THREE

The Basic Rights and Duties of the People

Article 25 The people of Afghanistan, without any discrimination or preference, have equal rights and obligations before the law.

Article 26 Liberty is the natural right of the human being. This right has no limitations except the liberty of others and public interest as defined by the law.

The liberty and dignity of the human being are inviolable and inalienable. The State has the duty to respect and protect the liberty and dignity of the individual.

No deed is considered a crime except by virtue of a law in force before its commission.

No one may be punished except by the order of a competent court rendered after an open trial held in the presence of the accused.

No one may be punished except under the provisions of a law that has come into effect before the commission of the offense with which the accused is charged.

No one may be pursued or arrested except in accordance with the provisions of the law.

No one may be detained except on order of a competent court, in accordance with the provisions of the law.

Innocence is the original state; the accused is considered to be innocent unless found guilty by a final judgment of a court of law.

Crime is a personal deed. Pursuit, arrest or detention of the accused and the execution of sentence against him does not affect any other person.

Torturing a human being is not permissible. No one can torture or issue orders to torture a person even for the sake of discovering facts, even if the person involved is under pursuit, arrest or detention or is condemned to a sentence.

Imposing punishment incompatible with human dignity is not permissible.

A statement obtained from an accused or any other person by compulsion is not valid.

Confession of a crime means the admission made by an accused willingly and in full possession of his senses before a competent court with regard to the commission of a crime legally attributed to him. Every person has the right to appoint defence counsel for the removal of a charge legally attributed to him.

Indebtedness of one to another cannot cause deprivation or curtailment of the liberty of the debtor. The ways and means of recovering debt shall be specified in the law.

Every Afghan is entitled to travel within the territory of his State and settle anywhere except in areas prohibited by the law. Similarly, every Afghan has a right to travel outside of Afghanistan and return to Afghanistan according to the provisions of the law.

No Afghan shall be sentenced to banishment from Afghanistan or within its territory.

Article 27 No Afghan accused of a crime can be extradited to a foreign state.

Article 28 A person's residence is inviolable. No one, including the State can enter or search a residence without the permission of the resident or the orders of a competent court and in accordance with the conditions and procedure specified by the law.

In cases of witnessed crimes the responsible officer can enter or search the residence of a person without the permission of the resident or the prior writ of the court on his personal responsibility. The officer is bound to get the order of the court within the time limit set by the law after his entry into the house or its search.

Article 29 Property is inviolable.

No one's property can be confiscated except in accordance with the provision of the law and the decision of a competent court.

Expropriation is allowed only for securing public interest, against an advance equitable compensation, in accordance with the provisions of the law.

No one shall be prohibited from acquiring property and exercising the right of ownership of the same, within the limitations of the law. The ways of utilising property shall be regulated and guided by the law, for securing the public interest.

Investigations and declarations of a person's property can be made only in accordance with the provisions of the law.

Foreign States and nationals are not entitled to own immovable property in Afghanistan. Subject to the approval of the Government, immovable property may be sold to the diplomatic missions of foreign States on a reciprocal basis and also to those international organisations of which the State of Afghanistan is a member.

Article 30 The freedom and secrecy of people's communications, whether by writing, telephone, telegraph or other medium, are inviolable.

The State has no right to search personal communications except by the order of a competent court and in accordance with the provisions of the law.

In urgent cases, defined by the law, the official responsible can search communications on his responsibility, without the prior permission of the court. The official concerned is bound to obtain, after the search, the decision of the court within the time limit set under the law.

Article 31 Freedom of thought and expression is inviolable.

Every Afghan has the right to express his thoughts in speech, in writing, in pictures and by other means, in accordance with the provisions of the law.

Every Afghan has the right to print and publish ideas in accordance with the provisions of the law, without submission in advance to the authorities of the State.

The permission to establish and own public printing houses and to issue publications is granted only to the citizens and the State of Afghanistan, in accordance with the provisions of the law.

The establishment and operation of public radio transmission and telecasting is the exclusive right of the State.

Article 32

Afghan citizens have the right to assemble unarmed, without prior permission of the State, for the achievement of legitimate and peaceful purposes, in accordance with the provisions of the law.

Afghan citizens have the right to establish, in accordance with the provisions of the law, associations for the realisation of material or spiritual purposes.

Afghan citizens have the right to form political parties, in accordance with the terms of the law, provided that:

1. The aims and activities of the party and the ideas on which the organization of the party is based are not opposed to the values embodied in this Constitution.

2. The organization and financial resources of the party are open.

A party formed in accordance with the provisions of the law cannot be dissolved without due process of the law and the order of the Supreme Court.

Article 33

Anyone who, without due cause, suffers damage from the Administration is entitled to compensation and may file a suit in a court for its recovery.

The State cannot, except in cases specified by the law, resort to the recovery of its dues without the order of a competent court.

Article 34

Education is the right of every Afghan and shall be provided free of charge by the State and the citizens of Afghanistan. The aim of the State in this sphere is to reach a stage where suitable facilities for education will be made available to all Afghans, in accordance with the provisions of the law. The Government is obliged to prepare and implement a program for balanced and universal education in Afghanistan.

It is the duty of the State to guide and supervise education.

Primary education is compulsory for all children in areas where facilities for this purpose are provided by the State.

The State alone has the right and duty to establish and administer the institutions of public and higher learning. Outside this sphere, Afghan nationals are entitled to establish technical and literacy schools. Conditions for the establishment of such schools, their curricula and the conditions of learning in such schools are to be determined by law.

The Government may grant permission, in accordance with the provisions of the law, to foreign persons to establish private schools for the exclusive use of foreigners.

Article 35 It is the duty of the State to prepare and implement an effective programme for the development and strengthening of the national language, Pushtu.

Article 36 It is the duty of the State to provide, within the limits of its means, balanced facilities for the prevention and treatment of diseases for all Afghans. The aim of the State in this respect is to reach a stage where suitable medical facilities will be made available to all Afghans.

Article 37 Work is the right and precept of every Afghan who has the capability to do it.

The main purpose of laws designed to systematize labour is to reach a stage where the rights and interests of all categories of labourers are protected, suitable conditions of work are provided and the relations between the workers and employers are organised on a just and progressive basis.

The citizens of Afghanistan are admitted to the service of the State on the basis of their qualifications and in accordance with the provisions of the law.

Work and trade may be freely chosen, within the conditions determined by the law.

Forced labour even for the benefit of the State is not permissible. The prohibition of forced labour shall not be so construed as to affect the implementation of the laws governing the organisation of collective work for the public interest.

Article 38 Every Afghan is bound to pay tax and duty to the State. No duty or tax of any kind shall be levied without the provisions of the law. The rate of tax and duty as well as the method of payment shall be determined by law with consideration for social justice. The provisions of this Article are applicable to foreign persons as well.

Article 39 It is the sacred duty of all citizens of Afghanistan to defend their country. All citizens of Afghanistan are bound to perform military service in accordance with the provisions of the law.

Article 40 It is the duty of all the people of Afghanistan to follow the provisions of the Constitution; to bear loyalty to the King and respect him; to obey laws; to have due consideration for public order and peace; to protect the interests of the homeland and to participate in the national life.

TITLE FOUR

The Shura (Parliament)

TITLE FOUR

The Shura (Parliament)

Article 41 The Shura (Parliament) in Afghanistan manifests the will of the people and represents the whole of the nation.

The people of Afghanistan participate through the Shura (Parliament) in the political life of the country. Although elected from a particular constituency each member of the Shura (Parliament) shall at the time of expressing his opinion, take the general interest of the whole of Afghanistan as the basis for his judgment.

Article 42 The Shura (Parliament) consists of two houses:

Wolesi Jirgah (House of the People)
Meshrano Jirgah (House of the Elders)

Article 43 Members of the Wolesi Jirgah (House of the People) shall be elected by the people of Afghanistan in a free, universal, secret and direct election, in accordance with the provisions of the law. For this purpose Afghanistan shall be divided into electoral constituencies, the number and limits of which are fixed by the law. Each constituency shall return one member. The candidate who obtains the largest number of votes cast in his constituency, in accordance with the provisions of the law, shall be recognized as the representative of that constituency.

Article 44 Members of the Wolesi Jirgah (House of the People) shall be elected for a period of four years, which is one term of the legislature. Whenever the Shura (Parliament) is dissolved, in accordance with the provisions of this constitution, a new Wolesi Jirgah (House of the People) shall be elected for another legislative term. However, the termination date of the outgoing House is so regulated that the ensuing session of the Wolesi Jirgah (House of the People) commences on the date stipulated in Article 59.

Article 45 Members of the Meshrano Jirgah (House of the Elders) shall be nominated and elected as follows:

1. One-third of the members shall be appointed by the King for a period of five years from amongst well-informed and experienced persons.

2. The remaining two-thirds of the members shall be elected as follows:

   a. Each Provincial Council shall elect one of its members to the Meshrano Jirgah (House of the Elders) for a period of three years.

   b. The residents of each province shall elect one person for a period of four years by a free, universal, secret and direct election.

Article 46 Qualifications for voters shall be specified in the electoral law.

Persons appointed or elected for membership in the Shura (Parliament) must meet the following requirements in addition to their qualifications as voters:

1. Must have acquired Afghan nationality at least ten years prior to the date of nomination or election.

2. Must not have been punished by a court with deprivation of political rights after the promulgation of this constitution.

3. Must be able to read and write.

4. Members of the Wolesi Jirgah (House of the People) must have completed the age of 25 at the time of the election and those of the Meshrano Jirgah (House of the Elders) the age of 30 at the time of their nomination or election.

Article 47 The Head and members of the government, Judges, officers and members of the armed forces, officials and other personnel of the administration cannot be appointed or elected to the Shura (Parliament) while they are in service.

Article 48 No person can be a member of both Houses simultaneously.

Article 49 Elections shall be governed by the electoral law subject to the provisions of this Constitution.

No bill to amend the electoral law may be entertained on the agenda of either house of the Shura (Parliament) during the last two years of the legislative term of the Wolesi Jirgah (House of the People).

Article 50 Documents of membership are authenticated in each House by the House itself. The procedure of authentication shall be specified in the rules of procedure of the House concerned.

Article 51 No legal proceedings can be brought against a member of the Shura (Parliament) for expressing an opinion or idea while performing his duty inside or outside the Shura (Parliament).

Whenever a member of the Shura (Parliament) is accused of an offence, the official responsible shall communicate the matter to the House of which the accused is a member. The legal proceedings against the accused shall be initiated when the House votes its approval by a two-thirds majority of its members. The House can also rescind its permission by a two-thirds majority vote of its members.

In the case of a witnessed crime the official responsible can start legal proceedings and arrest a member of the Shura (Parliament) without the permission of the House to which he belongs.

Whenever legal proceedings demand the detention of the accused in accordance with the provisions of the law, the official responsible is bound to communicate the matter immediately to the House concerned, and with its permission may detain the accused. In case the accusation occurs during the period when the House is not in session, permission for detention shall be obtained from the Executive Council of the House. The decision of the Executive Council shall be placed before the House at its next session for appropriate action.

Article 52 Members of the Shura (Parliament) cannot undertake any other profession. This rule does not apply to agriculture and other free enterprises.

Article 53 Suitable salaries shall be fixed in accordance with the law for members of Shura (Parliament).

Article 54 Every member of Shura (Parliament) is entitled to express his views on the subject of debate in his House, in accordance with the Rules of Procedure.

Article 55 The two Houses meet separately but at the same time.

The Meshrano Jirgah (House of the Elders) can hold extraordinary sessions to study the budget proposals of the State during the time when the Wolesi Jirgah (House of the People) is adjourned.

A joint session of the two Houses of Shura (Parliament) is held when the King inaugurates the new Shura (Parliament) or addresses the annual session of the Shura (Parliament).

Article 56 The members of the Government may attend the meetings of both Houses of Shura (Parliament).

Each House may demand the presence of the Head or members of the Government at its meetings.

Article 57 Debates in both Houses are open except when the Government, the President of the House or at least ten members request a secret session, and the House grants its approval. The House can, with a two-thirds majority of the members, convert secret proceedings into open debate.

The proceedings of both Houses of Shura (Parliament) are recorded.

Nobody may enter the meeting place of the Shura (Parliament) by force. Violators shall be punished according to the law.

Article 58 Except in cases clearly defined in this Constitution, decisions in each House shall be made by a majority vote of the members present.

Article 59 Each House of Shura (Parliament) holds one ordinary session per year, which opens on the 22nd of Meezan. The number of annual sessions can be increased by law. In such cases the law shall regulate the opening date of the session and its duration.

The working period of each House of Shura (Parliament) is seven months per year. This period may be extended by each House according to the requirements of its business.

During the recess period, an extraordinary session of Shura (Parliament) may be summoned by the King; or on a request by the Government, the President of one of the Houses, or by one-fifth of its members.

The extraordinary session of Shura (Parliament) ends by a Royal Decree issued after consultation with the Presidents of both Houses.

Article 60 The President of the Meshrano Jirgah (House of the Elders) is appointed from amongst its members by the King.

The Wolesi Jirgah (House of the People) elects one of its members as President of the House.

Each House elects from amongst its members one First Deputy President, one Second Deputy President, one Secretary and one Deputy Secretary. The above mentioned persons constitute the Executive Council of the House.

The Executive Council of the Wolesi Jirgah (House of the People) is elected at the opening of the legislative term while the Vice-Presidents, Secretary and Deputy Secretary of the Meshrano Jirgah (House of the Elders) are elected for one year at the beginning of each annual session.

The President of each House conducts debates in the House concerned and adopts necessary measures for the maintenance of law and order on the premises of the House. Other duties of the President are defined in the Rules of Procedure for the House. In the absence of the President, the First Deputy President, and in the absence of the First Deputy President, the Second Deputy President officiates as President.

The Secretary of the House records the proceedings of the House and supervises the functions of its Secretariat. In the absence of the Secretary the Deputy Secretary discharges the duties of the Secretary.

Article 61 Each House appoints, in accordance with its Rules of Procedure, committees for making thorough and detailed study of the subjects under consideration.

Article 62 Each House formulates its own Rules of Procedure.

Article 63 The Shura (Parliament) may be dissolved by order of the King.

The dissolution of the Shura (Parliament) is imperative under the conditions described in Article 121.

The dissolution of the Shura (Parliament) encompasses the non-elected members of the Meshrano Jirgah (House of the Elders).

Article 64 The Shura (Parliament) legislates for organizing the affairs of the country in accordance with the provisions of this Constitution.

There shall be no law repugnant to the basic principles of the sacred religion of Islam and the other values embodied in this Constitution.

The ratification of international treaties, the dispatch abroad of detachments of Afghan armed forces, the grant of concessions important to the national economy including monopolies, and the authorization to issue money and obtain loans are within the competence of the Shura (Parliament). Concessions which are to be ratified by the Shura (Parliament) shall be defined by the law.

Article 65 The Government is responsible to the Wolesi Jirgah (House of the People).

Article 66 The members of the Wolesi Jirgah (House of the People) may put questions to the Government. Debate on the Government explanation depends upon the decision of the House.

Article 67 The members of the Shura (Parliament) may ask questions from the Prime Minister or the Ministers about specific subjects.

Persons thus asked are bound to furnish a verbal or written answer. This answer shall not be made subject of debate.

Article 68 The Wolesi Jirgah (House of the People) is competent to appoint, on proposal from one-third of its members, an Enquiry Commission to investigate and study the conduct of the Government and the actions of the administration. The composition of the Enquiry Commission and its method of functioning shall be defined in the Rules of Procedure of the House.

Article 69 Excepting the conditions for which specific provisions have been made in this Constitution, a law is a resolution passed by both Houses, and signed by the King. In the area where no such law exists, the provisions of the Hanafi Jurisprudence of the Shariaat of Islam shall be considered as law.

Article 70 A legislative bill may be introduced to the Shura (Parliament) by the Government or the members of the Shura (Parliament). Bills relating to Judicial administration may also be introduced by the Supreme Court. Bills relating to budgetary and financial legislation may only originate from the Government.

Article 71 A legislative bill may be introduced to either of the two Houses by the Government or the Supreme Court.

Article 72 When a bill is introduced by members of one of the two Houses, it is placed on the agenda of the House only after it is supported by at least ten members of the House concerned.

A bill which involves new financial commitments or a reduction in state revenue may be placed on the agenda of either House on condition that the bill provides for the sources of financing for the compensation of the loss. This provision does not apply to bills introduced by the Supreme Court.

Article 73 When a bill is placed on the agenda of either of the two Houses, it is first referred to the committee concerned, and after it has been commented upon by the committee, the bill is read in the House along with the comments .

of the committee, and debated upon, followed by voting on each article. After this the draft is read for the second time and put before the House for rejection or approval as a whole.

Article 74

When an enactment of one House is rejected by the other, a joint committee consisting of an equal number of members from both Houses is set up, in accordance with the provisions of the law, to settle the differences. The verdict of the committee becomes effective after it receives the Royal Assent. When the joint committee fails to resolve the differences, the enactment is considered invalid. If the enactment is from the Wolesi Jirgah (House of the People), it may be approved again by a majority of votes during the next term of legislation. The enactment, without reference to the Meshrano Jirgah (House of the Elders), then becomes law after it is signed by the King.

When the differences between the two Houses of the Shura (Parliament) relate to financial bills and are not resolved by the joint committee, the Wolesi Jirgah (House of the People) may move the bill again in the following session and approve it by a majority vote. This enactment, without reference to the Meshrano Jirgah (House of the Elders), becomes law after it is signed by the King.

Article 75

The State budget is presented to the Wolesi Jirgah (House of the People) through the Meshrano Jirgah (House of the Elders) together with their advisory comments.

The President of the Wolesi Jirgah (House of the People) refers the budget proposal, along with the comments of the Meshrano Jirgah (House of the Elders), to the committee concerned. Afterwards, the budget proposal, together with the comments of the Meshrano Jirgah (House of the Elders) and of the committee concerned, are presented to the House for consideration and decision. This decision is not submitted to the Meshrano Jirgah (House of the Elders) and becomes effective after it is signed by the King. This provision also applies to discussions on the development plans of the Government in the Wolesi Jirgah (House of the People).

Whenever for any reason the passage of the budget does not materialize before the beginning of the new fiscal year, the budget of the previous year is applicable until the new budget is adopted.

The Government is bound to submit to the Wolesi Jirgah (House of the People) final accounts of the budget of the previous year at least one month before the submission of the new budget.

Article 76 When the Meshrano Jirgah (House of the Elders) does not give its decision on an enactment referred to it by the Wolesi Jirgah (House of the People) within six months from the date of its receipt, the enactment is considered to have been adopted. In calculating this time, the period of adjournment is not taken into account.

Article 77 During adjournment or dissolution of the Shura (Parliament) the Government may formulate ordinances for regulating urgent matters in respect to paragraph one of Article 64. These ordinances shall become law after being signed by the King. The ordinances shall be submitted to the Shura (Parliament) within thirty days of the first meeting of the Shura (Parliament). If rejected the ordinances shall become invalid.

TITLE FIVE

The Loya Jirgah (Great Council)

TITLE FIVE

The Loya Jirgah (Great Council)

Article 78 The Loya Jirgah (Great Council) consists of members of the Shura (Parliament) and the Chairmen of the Provincial Councils.

In the event of the dissolution of the Shura (Parliament) its members retain their position as members of the Loya Jirgah (Great Council) until a new Shura (Parliament) comes into being.

Article 79 Subject to the provisions of Articles 19, 21 and 22 of this Constitution, the Loya Jirgah (Great Council) is summoned by a Royal proclamation.

Article 80 When the Loya Jirgah (Great Council) is in session, the provisions of Article 51 are applicable to its members.

Article 81 The deliberations of the Loya Jirgah (Great Council) are open unless the Government or at least twenty members of the Loya Jirgah (Great Council) request a secret session and the Loya Jirgah (Great Council) approves this request.

Article 82 The President of the Wolesi Jirgah (House of the People), and in his absence, the President of the Meshrano Jirgah (House of the Elders) presides over the Loya Jirgah (Great Council).

The Loya Jirgah (Great Council), at its first meeting, elects one of its members as Secretary.

Article 83 Except in cases clearly defined in this Constitution, the decisions of the Loya Jirgah (Great Council) shall be by a majority of the votes of its members present.

The procedure of the Loya Jirgah (Great Council) shall be regulated by law, subject to the provisions of this Constitution.

Article 84 The Loya Jirgah (Great Council) enjoys the powers defined in this Constitution.

TITLE SIX

The Government

TITLE SIX

The Government

Article 85 The Government of Afghanistan consists of the Prime Minister and the Ministers. The Prime Minister is the Head and the Ministers are the members of the Government. The number of Ministers and their functions shall be regulated by law.

Article 86 Any person who, in accordance with the provisions of this Constitution, is eligible for election to the Wolesi Jirgah (House of the People) may be appointed as the Head or member of the Government.

The Head of the Government shall be an Afghan by birth. The Head and members of the Government may be appointed from the members of the Shura (Parliament) or outside of it. Any member of the Shura (Parliament) appointed as the Head or a member of the Government shall cease to be a member of the Shura (Parliament).

Article 87 The Prime Minister and the Ministers cannot engage in any other profession during their tenure of office.

Article 88 Suitable salaries shall be fixed by law for the Head and members of the Government.

Article 89 The Government shall be formed by the person designated as Prime Minister by the King.

The members and policy of the Government are presented by the Prime Minister to the Wolesi Jirgah (House of the People), which, after debate, resolves on a vote of confidence in the Government. When the vote of confidence is given, the King issues a Royal decree appointing the Head and members of the Government.

Afterwards the Prime Minister acquaints the Meshrano Jirgah (House of the Elders) with the policy of the Government.

Article 90 Whenever a Government falls because of the death or resignation of the Prime Minister during the dissolution of the Shura (Parliament), a new Government shall be appointed by a Royal decree. The Prime Minister shall introduce the members of the Government and its policy to the Wolesi Jirgah (House of the People) at the opening of the new term of Shura (Parliament) and shall ask for a vote of confidence.

Article 91 The Government falls in the following circumstances:

1. On the Prime Minister's resignation or death.

2. On a vote of no-confidence against the Government by the Wolesi Jirgah (House of the People).

3. On the charge of high treason against the Head or all members of the Government, as stipulated in Article 93.

4. On the dissolution of the Shura (Parliament).

5. On the termination of the legislative term.

In the last two cases, the Government shall cease to exist with the first meeting of the new Wolesi Jirgah (House of the People).

In the case of resignation of the Prime Minister, the Government ceases to exist after the acceptance of the resignation by the King.

In the event of the Prime Minister's death, one of the Ministers, on orders from the King, discharges the duties of Prime Minister until a new Government is formed.

When the Government falls due to the allegation of high treason, under the provision of Article 93, the person appointed by the King as the Prime Minister can continue his duties without receiving a vote of confidence until the first meeting of the Wolesi Jirgah (House of the People) following the decision of the Loya Jirgah (Great Council) on the allegation.

In all other cases the outgoing Government shall continue in office until a new Government is formed.

Article 92 The vote of no-confidence against the Government shall be specific and direct. In the two legislative terms following the promulgation of this Constitution, a vote of no-confidence against the Government shall be by a two-thirds majority of the Wolesi Jirgah (House of the People) and for Governments after that period, by a majority vote of the members.

Article 93 When more than one-third of the members of the Wolesi Jirgah (House of the People) demand the impeachment of the Prime Minister or of a majority of the members of the Government on a charge of high treason, and the Wolesi Jirgah (House of the People) approves this demand by a two-thirds majority of the members, the Government falls and a meeting

of the Loya Jirgah (Great Council) is called to appoint an Enquiry Commission. If after studying the report of the Commission, the Loya Jirgah (Great Council) decides by a two-thirds majority vote of the members that prosecution is necessary, it commissions a member of the Wolesi Jirgah (House of the People) to file a suit against the accused in the Supreme Court.

The above provision shall also apply to one or a few Ministers numbering less than half who are accused of high treason. As a result of the accusation, the accused shall be relieved of his duties but the Government shall not fall.

Article 94 Implementation of the provisions of this Constitution and all the laws, enforcement of the final judgments of the courts, adoption of necessary measures for the maintenance of public order and security, regulation of financial affairs of the State, protection of public property, development of the social, cultural and economic condition of the people, preservation of independence, defense of territorial integrity and protection of the interests and prestige of Afghanistan in the international community are the duties of the Government.

To regulate its functions, the Government shall make Regulations based on laws. No Regulation shall be repugnant to the letter or spirit of any law.

Article 95 The Council of Ministers lays down the basic lines of the policy of the Government and approves those regulations which are within the competence of the Government.

The Prime Minister presides over the Council of Ministers, directs and guides the activities of the Government and secures coordination in its work.

The Prime Minister is also responsible for maintaining liaison between the Government, on the one side, and the King and the Shura (Parliament) on the other side.

The Ministers discharge their duties, as heads of the administrative units, and as members of the Government, under the order and guidance of the Prime Minister within the limitations established by this Constitution and the laws.

Article 96 The Prime Minister and the Ministers are collectively responsible to the Wolesi Jirgah (House of the People) for the general policy of the Government, and individually for their prescribed duties.

The Prime Minister and the Ministers are also responsible for those actions of the Government concerning which they obtain a Royal decree, in accordance with the provisions of this Constitution.

TITLE SEVEN

The Judiciary

TITLE SEVEN

The Judiciary

Article 97 The Judiciary is an independent organ of the State and discharges its duties side by side with the Legislative and Executive Organs.

Article 98 The Judiciary consists of a Supreme Court and other courts, the number of which shall be determined by law.

It is within the jurisdiction of the Judiciary to adjudicate in all litigation brought before it according to the rules of law, in which real or legal persons, including the State, are involved either as plaintiff or defendant.

Under no circumstances shall a law exclude from the jurisdiction of the Judiciary, as defined in this Title, a case or sphere, and assign it to other authorities. This provision does not prevent the establishment of military courts; but the jurisdiction of these courts is confined to offences related to the armed forces of Afghanistan. The organization and jurisdiction of the military courts shall be determined by law.

Article 99 The judges are appointed by the King on the recommendation of the Chief Justice. Whenever a judge commits an offence, the Supreme Court considers the case of the judge, and after hearing the defense of the judge can recommend his dismissal to the King. In case the recommendation is approved by the King, the judge is dismissed from office. Transfers, promotions, calling to account, and recommendations for retirement of the judges are within the competence of the Supreme Court, in accordance with the provisions of the law.

Suitable salaries for the judges are fixed by law.

Judges cannot engage in other occupations during their tenure of office.

Article 100 In the courts of Afghanistan trials are held openly and everyone may attend in accordance with the provisions of the law. The Court may in exceptional cases specified in the law hold closed trials. However, the judgment shall always be openly proclaimed.

The courts are bound to state in their judgments the reasons for their verdicts.

Article 101 The enforcement of all final judgments of the courts is obligatory except in the case of a death sentence where the execution of the court decision is subject to the King's signature.

Article 102 The courts in the cases under their consideration shall apply the provisions of this Constitution and the laws of the State. Whenever no provision exists in the Constitution or the laws for a case under consideration, the courts shall, by following the basic principles of the Hanafi Jurisprudence of the Shariaat of Islam and within the limitations set forth in this Constitution, render a decision that in their opinion secures justice in the best possible way.

Article 103 Investigation of crimes shall be conducted, in accordance with the provisions of the law, by the Attorney-General, who is a part of the Executive organ of the State.

Article 104 Subject to the provisions of this Constitution, rules relating to the organization and the function of the courts, and matters concerning judges shall be regulated by law.

The principal aim of these laws shall be the establishment of uniformity in judicial practice, organization, jurisdiction, and procedures of the courts.

Article 105 The Supreme Court consists of nine Judges appointed by the King.

The King shall appoint the members of the Supreme Court from amongst persons who shall:

1. Have completed 35 years.
2. Be eligible for election to the Shura (Parliament) in accordance with the provisions of Article 46.
3. Have sufficient knowledge of jurisprudence, the national objectives, and the laws and legal system in Afghanistan.

The King appoints one of the Judges of the Supreme Court, whose age is not less than 40 and not over 60 years, as the Chief Justice.

The King can review the appointment of the Chief Justice and the Judges of the Supreme Court after the lapse of ten years from the date of their appointment to the said offices. Subject to the provisions of this Article and of Article 106, the Chief Justice and Judges of the Supreme Court shall not be removed from their offices by any other means.

Except in the case mentioned in Article 106, the Chief Justice and Judges of the Supreme Court shall, after their tenure in office, enjoy for the rest of their lives all the financial privileges pertaining to the term of their services.

The Chief Justice and Judges of the Supreme Court shall not, after the termination of their services, become Prime Minister or members of the Government, members of the Shura (Parliament) or Government officials.

The Chief Justice and members of the Supreme Court shall not participate in political parties during or after their tenure of office.

Article 106

Should more than one-third of the members of the Wolesi Jirgah (House of the People) demand the impeachment of the Chief Justice or one or more Judges of the Supreme Court on a charge of a crime stemming from the performance of their duties, and the Wolesi Jirgah (House of the People) approve this demand by a majority of two-thirds of its members, the accused is suspended from office and a meeting of the Loya Jirgah (Great Council) is called to appoint a Commission of Enquiry.

If the Loya Jirgah (Great Council), after studying the report of the Commission, decides by a two-thirds majority of its members that the prosecution of the accused is necessary, it shall appoint one of its members to file a suit and shall appoint a panel of eight persons to act as a tribunal. The tribunal, presided over by the President of the Meshrano Jirgah (House of the Elders), shall try the accused in accordance with the criminal procedures of the Supreme Court. The accused, if proved guilty, shall be dismissed from office and punished.

Article 107

The Supreme Court is the highest judicial authority in Afghanistan.

The Supreme Court regulates the organization and functions of the courts and the judicial affairs of the State in accordance with the provisions of this Constitution and the law.

The Supreme Court adopts necessary measures to organize the administrative affairs of the courts.

The budget of the Judiciary is prepared by the Chief Justice in consultation with the Government and, after the approval of the Supreme Court, is presented by the Government to the Shura (Parliament) as a part of the State budget.

The Supreme Court administers the budget of the Judiciary.

The provisions of the law relating to civil servants and other administrative employees of the State are applicable to the civil servants and other administrative employees of the Judiciary. However, their appointment, promotion, dismissal, retirement, and calling to account shall be within the competence of the Supreme Court, in accordance with the law.

TITLE EIGHT

The Administration

TITLE EIGHT

The Administration

Article 108 The administration of Afghanistan is based upon the principal of centralization, in accordance with the provisions of this Title.

The Central Administration shall be divided into a number of administrative units each headed by a Minister, as provided in the law.

The unit of local administration is the province. The number, area, subdivisions and organization of the provinces shall be fixed by law.

Article 109 In each province a Provincial Council shall be formed.

The members of the Provincial Council shall be elected by the residents of the province in a free, universal, direct and secret election.

The Provincial Council shall elect one of its members as Chairman.

The Provincial Councils shall take part in the realization of the development targets of the State in the manner specified by law.

Similarly, the Provincial Councils shall advise the Provincial Government on matters pertaining to the betterment of the condition and the general development of the province.

The Provincial Council shall discharge its duties in cooperation with the Provincial Government.

Suitable salaries for the members of the Provincial Councils shall be fixed by law.

Article 110 Laws shall be framed in accordance with the principles of this Title to organize the work of the local administration. One of the objectives of these laws shall be the extension of the councils to the village level and their ever-increasing participation in the local administration.

Article 111 Municipalities shall be organized to administer the affairs of the cities. Municipal Councils shall be established by free, universal, direct and secret election. Subject to the provisions of this Title, matters relating to the municipalities shall be regulated by law.

Article 112 The functions of the administration shall be carried out by the civil servants and other administrative employees.

Suitable salaries shall be fixed by law for the civil servants and other administrative employees.

The rights and duties of the civil servants and other administrative employees shall be regulated by law.

TITLE NINE

State of Emergency

TITLE NINE

State of Emergency

Article 113 Whenever the preservation of independence and the continuance of national life become impossible through the channels provided for in this Constitution due to war, danger of war, serious disturbances, or similar conditions which endanger the country, a state of emergency shall be declared by the King.

Should a state of emergency continue for more than three months, the concurrence of the Loya Jirgah (Great Council) is imperative for its extension.

Article 114 In a state of emergency, the King may transfer all or part of the powers of the Shura (Parliament) to the Government.

Article 115 In a state of emergency, the Government, after obtaining the concurrence of the Supreme Court, may, by ordinances, suspend or impose restrictions upon the following provisions of this Constitution:

1. Section one of Article 28.
2. Section three of Article 29.
3. Section two of Article 30.
4. Section one of Article 32.
5. Section one of Article 33.

Article 116 The King may, in a state of emergency, transfer the capital temporarily from the city of Kabul to another place.

Article 117 Should the legislative term of the Wolesi Jirgah (House of the People) or the term of office of a part of the members of the Meshrano Jirgah (House of the Elders) come to an end during the state of emergency, the king may postpone the holding of new elections and extend the legislative term of the Wolesi Jirgah (House of the People) or the term of office of the said members of the Meshrano Jirgah (House of the Elders), until the state of emergency comes to an end. Elections shall be held immediately after the termination of the state of emergency.

Article 118 The Constitution shall not be amended during a state of emergency.

Article 119 At the end of a state of emergency, the measures adopted under Article 115 become immediately invalid.

Measures adopted by the Government in accordance with the provisions of Article 114 shall be submitted to the Shura (Parliament) within one month from the date of its first meeting following the end of the state of emergency. These measures become null and void if the Shura (Parliament) rejects them.

Whenever during a state of emergency a Government has been formed which has not obtained a vote of confidence from the Wolesi Jirgah (House of the People) under the provision of Article 114, a motion for a vote of confidence shall be put immediately before the Wolesi Jirgah (House of the People) after the end of the state of emergency, for debate and decision thereon.

TITLE TEN

Amendment

TITLE TEN

Amendment

Article 120

Adherence to the basic principles of Islam, Constitutional Monarch in accordance with the provisions of this Constitution, and the values embodied in Article 8 shall not be subject to amendment.

Amendments to other provisions of the Constitution may be initiated by the Council of Ministers or one-third of the members of the Wolesi Jirgah (House of the People) or the Meshrano Jirgah (House of the Elders), in accordance with the provisions of this Title.

Article 121

The proposal for amendment is discussed by the Loya Jirgah (Great Council), and in case a majority of the members approves its necessity, a committee from amongst its members shall be appointed to formulate the amendment. The committee shall formulate the amendment with the advice of the Council of Ministers and the Supreme Court, for submission to the Loya Jirgah (Great Council). In case the Loya Jirgah (Great Council) approves the draft amendment with a majority vote of its members, it is submitted to the King. The King shall dissolve the Shura (Parliament), circulate the draft amendment to the public and proclaim the date of the new elections. The new elections shall take place within four months from the dissolution of the Shura (Parliament).

Article 122

Following the opening of the Shura (Parliament) and the formation of the Government the King summons the Loya Jirgah (Great Council), which, after consideration, approves or rejects the text of the draft amendment. The decision of the Loya Jirgah (Great Council) in this respect shall be by a two-thirds majority vote of its members and shall be enforced after it has been signed by the King.

TITLE ELEVEN

Transitional Provisions

TITLE ELEVEN

Transitional Provisions

Article 123 Subject to the provisions of this Title, this Constitution shall come into force from the date it is signed and proclaimed by the King.

Article 124 After the King proclaims this Constitution, the National Assembly and the Senate are considered to be dissolved.

Article 125 The new Shura (Parliament) shall be inaugurated on Meezan 22, 1344, A. H.

The period between the proclamation of this Constitution and the inauguration of the new Shura (Parliament) shall be considered the Interim Period.

During the Interim Period, the powers of the Shura (Parliament) are transferred to the Government.

Ordinances issued during the Interim Period, under the provisions of this Title, shall be submitted to the Wolesi Jirgah (House of the People) in accordance with the provisions of Article 77.

If during the Interim Period a situation arises, which, in accordance with the provisions of this Constitution, necessitates the convening of the Loya Jirgah (Great Council), the dissolved National Assembly and the Senate shall be summoned and the Loya Jirgah (Great Council) constituted in accordance with the provisions of Article 78.

If the Provincial Councils are not in existence when one of the above-mentioned situations arises, the Loya Jirgah (Great Council) shall be constituted without the Chairmen of the Provincial Councils.

Article 126 The following shall be among the duties of the Government during the Interim Period:

1. To prepare ordinances relating to elections, basic organization of the State, the press, and judicial organization and jurisdiction, and to submit the same to the King for his signature.

2. To prepare drafts of bills relating to political parties and Provincial Councils, and to submit them to the Shura (Parliament), convened after the Interim Period.

3. To adopt necessary measures and prepare the ground for the implementation of the provisions of this Constitution.

Article 127 The Supreme Court shall come into existence on the 22nd day of Meezan, 1346 A. H. If in the interim the application of the provisions of Articles 15, 17, 19, 21, 22, and 115 of this Constitution is called for, the provisions of the said Articles shall be enforced without the participation of the Supreme Court or the Chief Justice.

During the time between the proclamation of this Constitution and the establishment of the Supreme Court, the King has the authority to take necessary measures for securing the performance of the functions of the Supreme Court.

Article 128 Laws, issued prior to the proclamation of this Constitution shall be considered effective provided they are not repugnant to the provisions of this Constitution and are not nullified by new laws.

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